

## Message Text

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PAGE 01 BONN 07550 01 OF 02 022021Z  
ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W  
-----022145Z 098061 /73

O R 022010Z MAY 77  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC IMMEDIATE 7906  
INFO USMISSION USBERLIN  
USMISSION NATO BRUSSELS  
USMISSION EC BRUSSELS  
AMEMBASSY BERLIN  
AMEMBASSY LONDON  
AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 07550

EXDIS

E.O. 11652: GDS  
TAGS: PFOR PGOV EEC WB US UK FR GW  
SUBJECT: NATO MINISTERIAL: SENIOR LEVEL MEETING ON  
BERLIN AND GERMANY

REFS: (A) BONN 6579 (NOTAL); (B) STATE 84817 (NOTAL)

BEGIN SUMMARY. THE BONN GROUP HAS NOT COMPLETED ITS  
STUDY ON PROBLEMS IN THE BERLIN/EC RELATIONSHIP. AS THE  
TOPIC IS INCLUDED AS THE FINAL ITEM ON THE  
AGENDA FOR THE SENIOR LEVEL MEETING, THE BONN GROUP HAS  
INSTEAD PREPARED A BRIEF PAPER RECAPITULATING THE MAIN  
PROBLEMS WHICH COULD BE USED AS A BASIS FOR  
DISCUSSION. ACTION REQUESTED: APPROVAL OF THE DRAFT  
IN PARAGRAPH 4. END SUMMARY.

1. THE FINAL ITEM ON THE AGREED AGENDA FOR THE MAY 7  
SENIOR LEVEL MEETING CONCERNS BERLIN AND THE EC  
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(REFTELS). THE FRENCH BONN GROUP REP IN PARTICULAR  
HAD PUSHED FOR INCLUSION OF THIS ITEM, IN HOPES OF  
FORCING THE PACE OF BONN GROUP CONSIDERATION OF PROBLEMS  
IN THIS AREA. IN THE EVENT, IT HAS NOT BEEN POSSIBLE  
TO REACH AGREEMENT.

2. THE BONN GROUP HAS HAD BEFORE IT SEVERAL SUCCESSIVE

FRENCH DRAFTS AND A GERMAN COUNTERDRAFT. IT IS EASY ENOUGH TO POSE THE PROBLEMS BUT DIFFICULT TO FIND SOLUTIONS. ACCORDING TO THE UK REP (EYERS), THE REACTION OF THE FCO TO THE LAST FRENCH DRAFT WAS ONE OF DESPAIR; THE LEGAL AND POLITICAL PROBLEMS ARE SO COMPLEX THAT LONDON HAS NOT YET COME TO GRIPS WITH THEM.

3. THE ALTERNATIVES AT THIS STAGE WERE EITHER TO RECOMMEND THAT THE ITEM BE DROPPED FROM THE AGENDA OR -- GIVEN THE MANDATE FROM MINISTERS AT THE DECEMBER QUADRIPARTITE MEETING -- TO PREPARE A BRIEF PAPER RECAPITULATING THE PROBLEMS AND NOTING THAT THE STUDY IS UNDERWAY. THE BONN GROUP HAS OPTED FOR THE LATTER ALTERNATIVE.

4. AD REF AGREEMENT WAS REACHED ON MAY 2 ON THE FOLLOWING DRAFT FOR SUBMISSION TO SENIOR OFFICIALS AS A REMINDER OF THE MAIN PROBLEMS, IN CASE ITEM FOUR ON THE AGENDA IS REACHED AT THE SENIOR LEVEL MEETING:

BEGIN TEXT

I. AS REQUESTED BY MINISTERS THE BONN GROUP HAS STARTED A STUDY OF THE PROBLEMS ARISING FROM BERLIN'S PARTICIPATION IN EC ACTIVITIES AND DEVELOPMENTS.

THE BRITISH, GERMAN AND FRENCH DELEGATIONS HAVE PUT FORWARD PRELIMINARY THOUGHTS AND PREPARATORY NOTES ON THIS SUBJECT, BUT IN VIEW OF THE POLITICAL CONFIDENTIAL

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AND LEGAL COMPLEXITY OF THESE QUESTIONS, IT HAS NOT BEEN POSSIBLE TO PREPARE A DOCUMENT WHICH COULD BE TRANSMITTED TO MINISTERS. THE BONN GROUP INTENDS THAT THIS STUDY SHOULD BE READY FOR THE QUADRIPARTITE MEETING IN DECEMBER 1977.

IN THIS STUDY THE GROUP EXPECTS TO LOOK PRINCIPALLY AT THE PROBLEMS WHICH ARISE IN THE FOLLOWING AREAS:

A. THE PRACTICAL APPLICATION TO BERLIN OF CERTAIN PROVISIONS OF THE TREATY OF ROME CAN GIVE RISE TO PROBLEMS WHICH HAVE NOT ALWAYS BEEN FORESEEN. CERTAIN REGULATIONS (NOTABLY REGULATIONS MADE UNDER ARTICLE 235) AND BERLIN'S PARTICIPATION IN INTERNATIONAL AGREEMENTS CONCLUDED UNDER ARTICLES 113 AND 228 ARE

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-----022146Z 098037 /73

O R 022010Z MAY 77  
FM AMEMBASSY BONN  
TO SECSTATE WASHDC IMMEDIATE 7907  
INFO USMISSION USBERLIN  
USMISSION NATO BRUSSELS  
USMISSION EC BRUSSELS  
AMEMBASSY BERLIN  
AMEMBASSY LONDON  
AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 02 OF 02 BONN 07550

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CASES IN POINT. IN CONSIDERING THIS QUESTION, THE  
BONN GROUP WILL BE GUIDED BY A CONCERN NOT TO PUT IN  
QUESTION THE EXISTING SITUATION AND A WISH TO INDICATE  
PRACTICAL SOLUTIONS TO THE PROBLEMS OF PRINCIPLE  
INVOLVED.

B. THE BONN GROUP WILL ALSO CONSIDER WHETHER  
ANY CONFLICT IS LIKELY TO ARISE BETWEEN THE EUROPEAN  
COURT OF JUSTICE AND THE AK OVER THE  
INTERPRETATION OR APPLICATION OF THE EC TREATIES  
IN BERLIN, AND THE IMPLICATIONS OF ANY SUCH CONFLICT.

C. CERTAIN DEVELOPMENTS SUCH AS THE INTRODUCTION  
OF A COMMON TRANSPORT POLICY OR OF A EUROPEAN PASSPORT  
COULD CREATE PRACTICAL PROBLEMS, SINCE THEY MAY CONFLICT  
WITH EXISTING ARRANGEMENTS FOR BERLIN AND GERMANY AS A  
WHOLE.

D. ANY INSTITUTIONAL EVOLUTION OF THE  
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COMMUNITY WILL RAISE THE QUESTION OF WHAT AUTHORITY THE  
EC MAY HAVE OVER BERLIN.

II. THE BONN GROUP NOTES THAT THE IMMEDIATE PROBLEM  
OF BERLIN'S PARTICIPATION IN A DIRECTLY-ELECTED  
EUROPEAN ASSEMBLY REMAINS. FEDERAL LAWS IMPLEMENTING  
THE ACT OF THE EUROPEAN COUNCIL OF 20 SEPTEMBER 1976  
SHOULD BE ADOPTED IN THE COMING MONTHS. THE SOVIET  
UNION IS LIKELY TO REVIVE THE QUARREL AT THAT TIME.

END TEXT.

5. ACTION REQUESTED: APPROVAL OF THE ABOVE TEXT.  
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## Message Attributes

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**Decaption Note:** 25 YEAR REVIEW  
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**Disposition Comment:** 25 YEAR REVIEW  
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